

Proposed Regulation Text

In the following, underlined text indicates proposed new regulatory language, and strikethrough indicates deleted text.

Article 5. Parole Violation, Detention, and Revocation

~~§4845. Introduction.~~

~~Note: Authority cited: Sections 1711.3 and 1751, Welfare and Institutions Code.~~

~~Reference: Sections 1711.3 and 1752, Welfare and Institutions Code.~~

~~§4845. Introduction.~~

Purposes of Search.

[Move text from section 4846 without amendment]

A parole agent, or any peace officer designated by a Division of Juvenile Justice~~Youth Authority~~ parole agent for a specific purpose, may search the person, property or residence of a parolee~~ward~~ as a necessary adjunct to parole supervision and surveillance. The purposes of such searches are to:

- (a) Discover evidence of a law or parole violation.
- (b) Assure that evidence indicating a law or parole violation is not destroyed.
- (c) Assure that no dangerous weapon is possessed by a parolee~~ward~~ arrested by the agent or peace officer.

Note: Authority cited: Section 1712, Welfare and Institutions Code. Reference: Sections 1752 and 1766, Welfare and Institutions Code and Section 830.5, Penal Code.

~~§4846. Purpose of Search.~~

Guidelines for Search.

[Move text from section 4847 without amendment]

- (a) Searches shall be conducted pursuant to a parole agent having reasonable cause to believe that evidence indicating a law or parole violation will be disclosed.
- (b) A request from another agency or person to search a parolee~~ward~~ or his/her premises shall include supportive evidence or information to constitute reasonable cause for a parole agent's search.
- (c) Lawful searches that would otherwise violate any policies as prescribed in Sections 4846-4848 may be conducted under unusual circumstances upon approval of the supervising parole agent.

Note: Authority cited: Section 1712, Welfare and Institutions Code. Reference: Sections 1752 and 1766, Welfare and Institutions Code and Section 830.5, Penal Code.

§4847. Guidelines for Search.

Search of Premises.

[Move text from section 4848 without amendment]

- (a) A search of a ~~parolee's ward's~~ premises shall be conducted without use of force and in the ~~parolee's ward's~~ presence.
- (b) Notwithstanding the provisions of subsection (a), a parole agent may search a ~~parolee's ward's~~ premises without his presence when the agent has reasonable cause to believe that the ~~parolee ward~~ has a firearm or other deadly weapons at his premises ~~or~~ and the agent believes that:
 - (1) It will be dangerous to conduct a search in the ~~parolee's ward's~~ presence, or
 - (2) Failure to search or delay of search will endanger public safety.

Note: Authority cited: Section 1712, Welfare and Institutions Code. Reference: Sections 1752 and 1766, Welfare and Institutions Code; and Section 830.5, Penal Code.

§4848. Search of Premises

Warrants of Arrest/Detention.

[Move text from section 4848.5 without amendment]

A warrant of arrest shall be used to secure the arrest and/or detention of a parolee wanted or detained by the ~~Division~~Department.

- (a) A warrant shall not be valid beyond the age at which a ~~parolee's ward's~~ commitment terminates by law.
- (b) In those cases where a ~~parolee ward~~ has an expiration date fixed by offense, that date may be extended by the length of time the ~~parolee ward~~ is missing from supervision.

Note: -Authority cited: Section 1712, Welfare and Institutions Code. Reference: Section 1767.3 and 1766, Welfare and Institutions Code; and Sections 830.5, and ~~836~~, Penal Code.

§4848.5. Warrants of Arrest/Detention

Arrest/Detention of a Parolee.

[Move text from section 4849 without amendment]

The criteria to warrant an arrest and/or detention of a parolee are outlined in section 4978.

Note: Authority cited: Section ~~1712s 1711.3, and 1751,~~ Welfare and Institutions Code. Reference: Sections ~~1711.3,~~ 1752, 1766, and 1767.3, Welfare and Institutions Code; and Sections 830.5, 833, and 836, Penal Code.

§4849. Arrest/Detention of a Parolee

Detention of a Parolee

[Move text from section 4850 without amendment]

Following arrest, a parolee may be subject to continued detention without bail ~~at the initiation of parole staff~~ pending a Board hearing whereupon there is a proper showing that detention criteria are met. Such detention shall be in accordance with the criteria and time constraints set forth in Section 4978. If the Board orders that the parolee not be further detained, the ~~Division's Department's~~ hold must be withdrawn and, assuming no other holds within 24 hours, and the Parolee released from its custody within as soon as

possible, but no later than three (3) business days from the date of the order or as specified by the Board.

Note: Authority cited: Section 1712, Welfare and Institution Code. Reference: Sections 1752, 1766 and 1767.3, Welfare and Institutions Code.

§4850. ~~Detention of a Parolee~~

Missing Parolees.

[Move text from section 4851 without amendment]

Note: Authority cited: Sections ~~1711.3 and 1751~~ 1712, Welfare and Institutions Code. Reference: Sections ~~1711.3~~, 1752, 1766 and 1767.3, Welfare and Institutions Code.

§4851. ~~Missing Parolees~~

Parole Violation

[Move text from section 4852 without amendment]

A violation of any condition of parole shall be established by the Board in accordance with the provisions of Section 4982.

(a) Prior to discussing a possible violation of any condition of parole with a parolee, the ~~“Notice to Parolee Awaiting Violation Action” forms for~~ “Notice of Rights and Acknowledgement”, “Notice of Charges”, and “Request for Accommodation and Assistance” shall be served and explained to the parolee.

(b) Parole staff shall prepare reports for Board review when parole violation reporting criteria set forth in Section 4982 are met. Reports shall be submitted to the Board for review within seven (7) business days from the date of the Division’s parole hold, or in the case of Not-in Custody violation reports within twenty (fifteen20)15 days of the date of discovery~~Notice of rights and charges. Violation reports shall contain: available for Board review within time constraints fixed by the Board and contain, when appropriate:~~

(1) The ~~condition(s) of parole allegedly violated~~charges

(2) A summary of the alleged facts including the parolee’s version, if any

(3) The evidence and sources of evidence relied on

~~(4) The parolee’s version of the alleged facts. Parole staff shall advise a ward being interviewed that his statement may be used by the Board in making decisions about his liberty,~~

~~(45)~~ Recommendations concerning the parolee’s immediate and future liberty.

(c) A Juvenile Parolee may be returned to custody for up to one (1) year for a parole violation consistent with the revocation matrix established by the Juvenile Parole Board.

(d) Parole violations that consist of Level I or Level II behaviors may be resolved by the Parole Agent and Supervising Parole Agent at the field unit level without requiring final approval by the Juvenile Parole Board.

(e) If a Juvenile Parolee rejects a Corrective Action Plan recommendation made in response to a Level I or Level II violation, the case will be handled through the Parole Revocation Process using the date the parolee rejected the Corrective Action Plan as the date of discovery.

Note: Authority cited: Section ~~1712s 1711.3 and 1751~~, Welfare and Institutions Code. Reference: Sections ~~1711.3~~, 1752, 1766 and 1767.3, Welfare and Institutions Code.

§4852. Parole Violation

Parole Revocation

[Move text from section 4853 without amendment]

- (a) Parole Revocation shall address Level III parolee behavior which parole staff are required to report to the Juvenile Parole Board, including serious technical and/or law violations, and/ or any Level I or Level II behavior which the Parole Agent and Unit Supervisor deem serious or reportable.
- (b) If a Juvenile Parolee is not in custody, no later than ten (10) business days after the date of discovery, the Parolee shall be served with an actual notice of the alleged parole violation, including a short factual summary of the charged conduct, a Request for Accommodation and Assistance form, and a written notice of the Juvenile Parolee's rights regarding the Revocation Process and timeframes.
- (c) If a Juvenile Parolee remains in custody, no later than three (3) business days after the placement of the Parole Hold, the Parolee shall be served with an actual notice of the alleged parole violation, including a short factual summary of the charged conduct, a Request for Accommodation and Assistance form, and a written notice of the Juvenile Parolee's rights regarding the Revocation Process and timeframes.
- (d) For rights and procedures governing Revocation proceedings, see Sections 4977 through 4983.5.
- (e) All charges arising from the conduct for which a Juvenile Parolee was taken into custody shall be adjudicated at the final Revocation Hearing within 35 calendar days from the placement of the Parole Hold absent good cause. Charges may not be split going beyond 35 days in the absence of good cause.
- (f) If chargeable behavior known to Parole prior to notice being served on the Parolee is not included in the initial notice of charges, such conduct cannot serve as the basis for subsequent charges.
- (g) If chargeable behavior is discovered after the Notice of Rights, but before the revocation packet has been submitted to the Juvenile Parole Board, the parolee can be served on the new charges, and the new charges incorporated into the initial packet.
- (h) Any supplemental charges must be based on conduct that occurs or is discovered by Parole after the initial revocation packet has been sent to the Juvenile Parole Board but before the hearing. These supplemental charges must be raised at a reasonable time prior to the hearing.
- (i) The parole revocation term imposed by the Juvenile Parole Board may not exceed twelve (12) months. A Juvenile Parolee's revocation period can only be extended through the Revocation Extension process as described in Section 4853.
- (j) The Juvenile Parole Board shall track the timeliness of the Revocation process and reasons proffered for any delays.
- (k) All Parole Revocation Hearings shall be accessible to and usable by individuals with disabilities.

- (l) Parolees charged with Serious In-Custody Misconduct involving violence against a person that occurs while the parolee is in custody pending Revocation proceedings may be assessed additional time. If a preponderance of the evidence shows that a Parolee committed such misconduct, the Parolee may be returned for up to one **twelve (12) months** in addition to his/her revocation term.

~~Note:~~ Authority cited: Section 1712s-1711.3 and 1751, Welfare and Institutions Code. Reference: Sections 1711.3, 1752, 1766 and 1767.3, Welfare and Institutions Code and Section 830.5, Penal Code.

§4853. ~~Parole Revocation~~

Parole Revocation Extension Process

[Re-assigned section 4853 to adopted text without amendment]

- (a) A parole violator who commits an act of Serious In-Custody Misconduct or Willful Program Failure while in revoked status is subject to Revocation Extension Proceedings.
- (b) Revocation Extension Proceedings will take place if qualifying misconduct occurs while the parole violator is in a local county facility, state prison, Division of Juvenile Justice (DJJ) facility or other detention facility.
- (c) The Division of Juvenile Parole Operations shall be responsible for the Revocation Extension process for those parole violators under the jurisdiction of the Division and housed in non-DJJ facilities.
- (d) The Division of Juvenile Facilities shall be responsible for the revocation extension process for parole violators housed in DJJ facilities.
- (e) If the Juvenile Parole Board sustains revocation extension charges, the period of revocation may be extended up to 12 months from the current Revocation Release Date (RRD).
- (f) The Juvenile Parole Board may extend a Juvenile Parolee's revocation period only after appointment of an attorney, a Probable Cause Hearing and if the case is not resolved at this stage, a Revocation Extension Hearing which shall take place before a Juvenile Parole Board Hearing Officer. Unless the parole violator waives or seeks continuance of a timely Revocation Extension Hearing, such a hearing shall take place at the earliest practical time after the alleged conduct that is grounds for the charge and no later than 35 calendar days after the parole violator is served with notice of his charges and rights.
- (g) A **parole violator**'s parole revocation period may not be extended because of the Juvenile Parole Board's failure to provide a recommended program at all or in a timely manner.
- (h) In the event that the alleged conduct that is grounds for the charge occurs within 30 calendar days prior to the **parole violator**'s Revocation Release Date, the Revocation Extension Hearing must occur at the earliest practical time after the alleged conduct, but, in any event, no later than 35 calendar days after his/her Revocation Release Date, absent good cause for going beyond that time.
- (i) A parole violator may only be charged with one act of Serious In-Custody Misconduct or Willful Program Failure for each revocation extension referral. However, the parole violator may be subject to additional revocation extension actions for future incidents of Serious In-Custody Misconduct or Willful Program Failure.

(j) For rights and procedures governing the Revocation Extension process, see sections 4977, 4977.6, 4977.7, 4979, 4080(d), 4980.5, and 4983.5.

(k) The Juvenile Parole Board shall track the timeliness of [Revocation Extension](#) proceedings and reasons proffered for any delays.

Authority cited: Section 1751, Welfare and Institutions Code. Reference: Sections 1752, 1766 and 1767.3, Welfare and Institutions Code.